UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 11-20050-MC-MARTINEZ/BROWN

IN RE: Request from United Kingdom Pursuant to the Treaty Between the United States of America and the United Kingdom of Great Britain and Northern Ireland on Mutual Assistance in Criminal Matters in the Matter of Peter Storrie, et al.

_____/

APPLICATION FOR ORDER PURSUANT TO THE TREATY ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS AND TITLE 18, UNITED STATES CODE, SECTION 3512

The United States of America petitions this Court for an order, pursuant to Article 5 of the Treaty between the United States of America and the United Kingdom on Mutual Assistance in Criminal Matters, 1994 WL 855115 (the "Treaty"), entered into force December 2, 1996, 18 U.S.C. § 3512, and its own inherent authority, appointing Peter Forand (or a substitute or successor subsequently designated by the Office of the United States Attorney) as Commissioner to collect evidence from witnesses and to take such other action as is necessary to execute the above captioned and attached request from United Kingdom made pursuant to the Treaty.

Respectfully submitted,

WIFREDO A. FERRER
UNITED STATES ATTORNEY

By: _____

PETER A. FORAND
ASSISTANT UNITED STATES ATTORNEY
Florida Bar Number 682268
99 Northeast 4th Street, Suite 600
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JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

PETER A. FORAND, AUSA
99 NE 4th Street
Miami, Florida 33132
Telephone No. (305) 961-9060

DEFENDANTS

IN RE: Request from UK Pursuant to the Treaty Between the U.S. And the UK of Great Britain and North Ireland on Mutual Assistance in Criminal Matters in the Matter of Peter Storrie, et al.

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

(d) Check County Where Action Arose: ☒ DADE ☐ MONROE ☐ BROWARD ☐ PALM BEACH ☐ MARTIN ☐ ST. LUCIE ☐ INDIAN RIVER ☐ OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☒ 1 U.S. Government Plaintiff
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury - Med. Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence

Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☒ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):

18 USC § 3512 (Mutual Legal Assistance Treaty)

LENGTH OF TRIAL via ____ days estimated (for both sides to try entire case)

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE
12/17/2010

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. _____

IN RE: Request from United Kingdom Pursuant to the Treaty Between the United States of America and the United Kingdom of Great Britain and North Ireland on Mutual Assistance in Criminal Matters in the Matter of Peter Storrie, et al.

_____/

CIVIL COVER SHEET

1. Did this matter originate from a matter pending in the Northern Region of the United States Attorney's Office prior to October 14, 2003? ___ Yes __x__ No

2. Did this matter originate from a matter pending in the Central Region of the United States Attorney's Office prior to September 1, 2007? ___ Yes __x__ No

Respectfully submitted,

WIFREDO A. FERRER
UNITED STATES ATTORNEY

By: _____

PETER A. FORAND
ASSISTANT UNITED STATES ATTORNEY
Florida Bar Number 682268
99 Northeast 4th Street, Suite 600
Miami, Florida 33132
Phone: 305-961-9060
Fax: 305-530-6168
Peter.Forand@usdoj.gov

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-20050-MC-MARTINEZ/BROWN

IN RE: Request from United Kingdom Pursuant to the Treaty Between the United States of America and the United Kingdom of Great Britain and North Ireland on Mutual Assistance in Criminal Matters in the Matter of Peter Storrie, et al.

_____/

ORDER APPOINTING COMMISSIONER

Upon application of the United States, and upon review of the Request from the United Kingdom dated November 2, 2010, seeking evidence pursuant to the Treaty between the United States of America and the United Kingdom on Mutual Assistance in Criminal Matters, 1994 WL 855115 (the "Treaty"), entered into force December 2, 1996, 18 U.S.C. § 3512, for use in a criminal investigation, prosecution, or procedure related to the prosecution in the United Kingdom, and the Court having fully considered this matter,

IT IS HEREBY ORDERED, pursuant to the authority conferred by the Treaty and 18 U.S.C. § 3512, as well as this Court's inherent authority, that Assistant United States Attorney Peter A. Forand (or a substitute or successor designated by the Office of the United States Attorney) is appointed as Commissioner (the "commissioner") of this Court and hereby directed to execute the Treaty Request and to take such steps as are necessary to collect the evidence requested. In doing so, the commissioner:

1. may issue commissioner's subpoenas to be served at any place within the United States on persons (natural and legal) ordering them or their representatives to appear and to testify and produce evidence located within the United States;

2. shall provide notice with respect to the collection of evidence to those persons identified in the Request as parties to whom notice should be given (and no notice to any other party shall be required);

3. shall adopt procedures to collect the evidence requested consistent with its use in the investigation, prosecution or other proceeding for which the United Kingdom has requested assistance, which procedures may be specified in the Request or provided by or with the approval of the Central Authority under the Treaty;

4. may, in collecting the evidence requested, be accompanied by persons whose presence or participation is authorized by the commissioner, including, without limitation, special agents and/or representatives of the United Kingdom who, as authorized or directed by the commissioner, may direct questions to any witness;

5. may seek such further orders of this Court as may be necessary to execute this Request, including orders to show cause why persons served with commissioner's subpoenas who fail to produce evidence should not be held in contempt, and including protective orders to regulate the use of the evidence collected;

6. shall certify and submit the evidence collected to the Office of International Affairs, Criminal Division, U.S. Department of Justice, or as otherwise directed by that Office for transmission to the United Kingdom; and

7. may provide copies of the evidence collected to persons identified in the Request as parties to whom such copies should be given (and to no other persons).

IT IS FURTHER ORDERED that any person from whom the commissioner seeks to collect evidence may, for good cause shown, oppose the giving of evidence, or the circumstances thereof, by motion timely filed with this Court, a copy of which shall be provided contemporaneously to the commissioner.

DONE and ORDERED, in Chambers, at Miami, Florida, this ____ day of _____, 2011.

UNITED STATES DISTRICT JUDGE

Dated: _____, 2011

cc: Peter A. Forand, AUSA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. _____

IN RE: Request from United Kingdom Pursuant to the Treaty Between the United States of America and the United Kingdom of Great Britain and North Ireland on Mutual Assistance in Criminal Matters in the Matter of Peter Storrie, et al.

_____/

COMMISSIONER'S SUBPOENA

TO: _____

I, commissioner Peter A. Forand, an Assistant United States Attorney for the Southern District of Florida, acting pursuant to the Treaty between the United States of America and the United Kingdom on Mutual Assistance in Criminal Matters, 1994 WL 855115 (the "Treaty"), entered into force December 2, 1996, 18 U.S.C. § 3512, and this Court's order thereunder for the purpose of rendering assistance to the United Kingdom, command that you appear before me in Room 400, in the James Lawrence King Federal Building located at 99 N.E. 4th Street, Miami, Florida, on _____, 2011, at _____a.m., to provide testimony/documents regarding alleged violations of the laws of the United Kingdom, namely, tax evasion, and that at the time and place aforesaid you provide the following:

For failure to attend and provide testimony/said documents, you may be deemed guilty of contempt and liable to penalties under the law.

Dated:

COMMISSIONER PETER A. FORAND
Assistant United States Attorney for the
Southern District of Florida
Telephone No. (305)961-9060

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 11-20050-MC-MARTINEZ/BROWN

IN RE: Request from United Kingdom Pursuant to the Treaty Between the United States of America and the United Kingdom of Great Britain and Northern Ireland on Mutual Assistance in Criminal Matters in the Matter of Peter Storrie, et al.

_____/

MEMORANDUM OF LAW IN SUPPORT OF APPLICATION FOR ORDER

The United States is seeking an order appointing a commissioner to collect evidence requested by the United Kingdom in its attached treaty request made pursuant to the Treaty between the United States of America and the United Kingdom of Great Britain and Northern Ireland on Mutual Assistance in Criminal Matters, 1994 WL 855115 (the "Treaty"), entered into force January 6, 1994, and to seek other orders, as needed, to execute the Request as authorized by the Treaty and 18 U.S.C. § 3512.

The Central Authority for United Kingdom of Great Britain and Northern Ireland pursuant to Article 2 of the Treaty makes this Request in connection with a criminal prosecution. Specifically, the Crown Prosecution Service's Central Fraud Group is prosecuting three defendants – Peter Storrie, Milan Mandaric, and Henry James Redknapp – for cheating the revenue, or tax evasion. The three defendants are all affiliated with the Portsmouth Football Club and are charged with avoiding taxes by making payments to third party accounts knowing that the payments would be transferred to officers and players of the Portsmouth Football Club. By making the payments to third party accounts instead of the Portsmouth Football Club members, the defendants were able to avoid paying taxes.

The United Kingdom is asking for assistance in obtaining bank records associated with payments from a company called First Star International Limited Inc. which, according to public records, is registered at 100 SE 2nd Street, Suite 3320, Miami, Florida, 33131, with Milan Mandaric listed as the registered agent. The letter of request states that this company has a bank account at City National Bank of Florida, Private Client Group, Miami, Florida, 33130, with the routing and account numbers provided.

Federal courts, pursuant to the Treaty, statute and their inherent authority, may issue orders as may be necessary for the production of the evidence requested by United Kingdom including orders appointing a person as a commissioner to gather such evidence and establishing the procedures for the production of such evidence.

A. Authority to Execute the Request

1. The Treaty

A treaty constitutes the law of the land. U.S. Const. art. VI. The provisions of a treaty have equal footing with acts of Congress and are binding on the courts. Asakura v. City of Seattle, Washington, 265 U.S. 332, 341 (1924); United States v. The Peggy, 5 U.S. 103 (1801); In re Commissioner's Subpoenas, 325 F.3d 1287, 1291 (11th Cir. 2003). To the extent that the provisions of a treaty are inconsistent with a preexisting statutory provision, the treaty supersedes the statute. Zschernig, et al. v. Miller, Administrator, et al., 389 U.S. 429, 440-441 (1968); In re Commissioner's Subpoenas, 325 F.3d 1287, 1305-1306 (11th Cir. 2003); United States v. Erato, 2 F.3d 11, 15-16 (2d Cir. 1993).

The United States and the United Kingdom entered into the Treaty to improve the effectiveness of the law enforcement authorities of both states in the investigation and prosecution of crime. In accordance with the provisions of the Treaty, each state is obliged to provide assistance to the other. The Treaty obliges each state to provide assistance to the other in investigations and prosecutions of offenses, and in proceedings related to criminal matters. Articles 1 and 19(1); In re Commissioner's Subpoenas, 325 F.3d 1287, 1290 (11th Cir. 2003). Each state contemplated that it would provide the other with assistance generally comparable to that which is available to its own law enforcement authorities, which assistance includes taking testimony or statements of persons, providing documents and other evidence, and immobilizing criminally-obtained assets. Article 1(2); Barr v. U. S. Department of Justice, 645 F. Supp. 235, 237 (E.D.N.Y. 1986), aff'd, 819 F.2d 25 (2d Cir. 1987).

The Treaty and 18 U.S.C. § 3512 empower federal courts to execute treaty requests in order to comply with the United States' treaty obligations. Article 5(1) provides that:

> The courts of the Requested Party shall have authority to issue subpoenas, search warrants, or other orders necessary to execute the request.

The Treaty contemplates that federal district courts will use compulsory measures to execute such requests. Article 8(1) provides that:

> A person in the territory of the Requested Party from whom evidence is requested pursuant to this Treaty may be compelled, if necessary, to appear in order to testify or produce documents, records, or articles of evidence by subpoena or such other method as may be permitted under the law of the Requested Party.

The Treaty imposes no dual criminality requirement as a precondition for providing assistance. Consequently, each state is obligated to provide assistance without regard to whether the conduct under investigation or prosecution would constitute an offence under the laws of the Requested State. See Letter of Submittal of Treaty to the President from the Department of State, January 6, 1995.

2. Statutory Authority Grounding Execution of Requests for Assistance

The Treaty is designed to be self-executing and requires no implementing legislation. See Letter of Submittal of Treaty to the President from the Department of State, January 6, 1995; In re Commissioner's Subpoenas, 325 F.3d 1287, 1291 (11th Cir. 2003). However, because the procedural provisions in many treaties are minimal, in the past federal courts routinely utilized procedures authorized by 28 U.S.C. § 1782 (the "commissioner" process) to execute treaty requests from foreign authorities. In re Commissioner's Subpoenas, 325 F.3d 1287, 1305-1306 (11th Cir. 2003). Substantive U.S. law regarding searches, seizures and other compulsory processes further grounded the execution of such assistance requests.

On October 19, 2009, the President signed the Foreign Evidence Request Efficiency Act of 2009 (Public Law 111-79), enacting 18 U.S.C. § 3512, the full text of which is attached for the convenience of this Court. Section 3512 explicitly authorizes a federal court to:

> issue such orders as may be necessary to execute a request from a foreign authority for assistance in the investigation or prosecution of criminal offenses, or in proceedings related to the prosecution of criminal offenses, including proceedings regarding forfeiture, sentencing, and restitution

Section 3512 directly empowers the federal courts to execute such requests and separately codifies under Title 18 the longstanding practice and procedures employed by the United States and the federal courts to execute requests by foreign authorities for assistance to the fullest extent possible under U.S. law. Congress enacted Section 3512 to make it "easier for the United States to respond to these requests by allowing them to be centralized and by putting the process for handling them within a clear statutory scheme." 155 CONG. REC. S6,810 (2009)(Statement of Sen. Whitehouse).

B. Execution of Foreign Requests for Assistance Under the Treaty and Section 3512.

1. Authorization of the Application to This Court

Section 3512 provides:

> Upon application, duly authorized by an appropriate official of the Department of Justice, of an Attorney for the Government, a Federal judge may issue such orders as may be necessary to execute a request from a foreign authority for assistance in the investigation and prosecution of criminal offenses, or in proceedings related to the prosecution of criminal offenses, including proceedings regarding forfeiture, sentencing and restitution.

For purposes of Section 3512, an application is "duly authorized by an appropriate official of the Department of Justice" when the Department of Justice, Criminal Division, Office of International Affairs, has reviewed and authorized the request and is executing the request itself or has delegated the execution to another attorney for the government. In this matter, such authorization and delegation is evidenced by a letter dated November 2, 2010 from the Department of Justice, Criminal Division, Office of International Affairs, received by the United States Attorney, transmitting the Request to this district for execution.

Section 3512(c) authorizes filing the instant application in the Southern District of Florida, where the majority (or all) of the evidence is located.

2. Foreign Authority Seeking Assistance Within Section 3512 and the Treaty.

As to the "foreign authority" making the Request, Section 3512(h) provides:

> The term "foreign authority" means a foreign judicial authority, a foreign authority responsible for the investigation or prosecution of criminal offenses or for proceedings related to the prosecution of criminal offenses, or an authority designated as a competent authority or central authority for the purpose of making requests for assistance pursuant to an agreement or treaty with the United States regarding assistance in criminal matters.

In this matter the Crown Prosecution Service is the designated Central Authority in the United Kingdom for requests made pursuant to the Treaty.

As evidenced by the Request itself and confirmed in the authorization process and again by the undersigned, consistent with Section 3512(a)(1), the foreign authority seeks assistance in the investigation or prosecution of criminal offenses or in proceedings related to the prosecution of criminal offenses.

3. Authority of the Federal Courts Under Section 3512.

When enacting Section 3512, Congress intended that federal courts facilitate to the fullest extent possible the execution of requests by foreign authorities for assistance in criminal matters and endeavored to streamline and expedite the execution of such requests. Section 3512 authorizes federal courts to issue "such orders as may be necessary to execute a request" and specifically includes: orders for search warrants pursuant to Federal Rule of Criminal Procedure 41; orders for stored wire or electronic communications and related evidence under 18 U.S.C. § 2703; orders for pen registers and trap and trace devices under 18 U.S.C. § 3123; orders for the provision of

testimony or a statement or the production of documents or other things, or both; and orders appointing "a person" to direct the taking of testimony or statements or the production of documents or other things, or both. 18 U.S.C. § 3512(a)(1), (2).

The assistance requested by the Crown Prosecution Service for the United Kingdom pursuant to the Treaty by its Central Authority in the instant Request falls squarely within that contemplated by both the Treaty and Section 3512.

C. Appointment of a Person as Commissioner to Collect Evidence

1. Statutory Authorization.

Section 3512(b) provides that a federal judge may "issue an order appointing a person to direct the taking of testimony or statements or of the production of documents or other things, or both." The statute further authorizes the person appointed to issue orders requiring the appearance of a person, or the production of documents or other things, or both; administer any necessary oath; and take testimony or statements and receive documents or other things. Commensurate with past practice under 28 U.S.C. § 1782, it is anticipated that a federal court would appoint an attorney for the government, typically a federal prosecutor, as "commissioner."

2. Procedures for Evidence Collection

Section 3512 (a) specifically empowers a federal judge to issue "such orders as may be necessary" to execute the request. This authorization encompasses orders specifying the procedures to be used to collect particular evidence, including procedures requested by the foreign authority to facilitate its later use of the evidence. In executing a request made pursuant to a treaty, a court has the obligation to prescribe effective and expeditious procedures designed to promote the purpose of the treaty. See In re Commissioner's Subpoenas, 325 F.3d 1287, 1305 (11th Cir. 2003). Nothing in

Section 3512 suggests any limitation on a court's power to exercise "complete discretion in prescribing the procedure to be followed" as was available under 28 U.S.C. § 1782. In re Letter of Request from the Crown Prosecution Service of the United Kingdom, 870 F.2d 686, 693 (D.C. Cir. 1989), citing 1964 U.S.C.C.A.N. at 3789. See White v. National Football League, et al., 41 F.3d 402, 409 (8th Cir. 1994), cert. denied, 515 U.S. 1137 (1995) (a court may issue whatever process it deems necessary to facilitate disposition of a matter before it); FED.R.CRIM.P. 57(b).

a. Procedures Authorized by Other Statutes.

In addition, Section 3512 references specific U.S. laws for obtaining certain evidence and, by doing so, adopts any statutorily mandated procedures in relation to obtaining orders for search warrants; orders for contents of stored wire or electronic communications or for records related thereto; and orders for a pen register or a trap and trace device.

b. Orders by the Person Appointed; Commissioner Subpoenas

Section 3512 authorizes the "person" appointed (here, and in past practice under 28 U.S.C. § 1782, the "commissioner") to issue orders "requiring the appearance of a person, or the production of documents or other things or both." Further, Article 8(1) of the Treaty provides for the issuance of procedural documents, such as subpoenas, to gather evidence:

> A person in the territory of the Requested Party from whom evidence is requested pursuant to this Treaty may be compelled, if necessary, to appear in order to testify or produce documents, records or articles of evidence by subpoena or such other method as may be permitted under the law of the Requested Party.

If a federal district court so orders, the commissioner may use the attached form, still entitled "commissioner's subpoena," to obtain the requested evidence. See In re: Commissioner's

Subpoenas, 325 F.3d 1287, 1291 (2d Cir. 1993) (incorporating in pertinent part a district court's order directing use of commissioner's subpoenas); United States v. Erato, 2 F.3d 11, 13-14 (2d Cir. 1993) (same). This commissioner's subpoena is simply a version of the "order" to be issued by the person appointed by the court under Section 3512 to direct the production of evidence. Section 3512 expressly authorizes the service and enforcement of such orders, or commissioner's subpoenas, anywhere in the United States (i.e., coextensive with the service of subpoenas in U.S. criminal investigations and prosecutions).

c. Notice of Evidence Taking

As an initial matter, this application is being made ex parte, consistent with U.S. practice in its domestic criminal matters and its prior practice on behalf of foreign authorities under 28 U.S.C. § 1782. In re Letter of Request from the Crown Prosecution Service of the United Kingdom, 870 F.2d 686, 688 (D.C. Cir. 1989); In re Letters Rogatory from the Tokyo District, Tokyo, Japan, 539 F.2d 1216, 1219 (9th Cir. 1976).

Both Section 3512 and the Treaty at Article 8(1) authorize use of compulsory process in the execution of treaty requests comparable or similar to that used in domestic criminal investigations or prosecutions. Because subpoenas utilized in U.S. criminal proceedings (i.e., grand jury and criminal trial subpoenas) are issued without notice to any party other than the recipients (i.e., no notice to targets or defendants), orders and commissioner's subpoenas issued in execution of treaty requests pursuant to Section 3512 and the applicable treaty likewise should require no notice other than to the recipients. In the absence of a specific request to provide notice, a district court and U.S. authorities can assume that a requesting foreign authority has provided such notice as the foreign law requires, or that foreign law does not require notice and the requesting foreign authority does not

consider notice to be necessary or useful. Accordingly, a federal district court should authorize a commissioner to collect the evidence requested without notice to any party other than the recipient of the commissioner's subpoena except to the extent that a request asks for specific notice procedures.

d. Right to Financial Privacy Act

The Right to Financial Privacy Act, 12 U.S.C. §§ 3401 et seq., does not apply to execution of foreign legal assistance requests. Young v. U.S. Dept. of Justice, 882 F.2d 633, 639 (2d Cir. 1989), cert. denied, 493 U.S. 1072 (1990); In re Letter of Request for Judicial Assistance from the Tribunal Civil de Port-Au-Prince, Republic of Haiti, 669 F. Supp. 403, 407 (S.D. Fla. 1987); In re Letters of Request from the Supreme Court of Hong Kong, 821 F.Supp. 204, 211 (S.D.N.Y. 1993). Consequently, to the extent that execution of a request entails production of bank or financial records, notice provisions of the Act do not apply, and the commissioner need not give, nor arrange for the custodian of records to give, notice to an account holder. (Note that the Act itself applies only to accounts maintained in a person's name and not to corporate, perhaps even partnership, accounts. United States v. Daccarett, 6 F.3d 37, 50-52 (2d Cir. 1993).)

Conclusion

The instant Request is exactly the type of request contemplated for execution under Section 3512. In its sequential legislative efforts relevant to the provision of assistance to foreign authorities, Congress has intended that the United States set an example to other nations by making judicial assistance generously available. See, e.g. In re Request for Assistance from Ministry of Legal Affairs of Trinidad and Tobago, 848 F.2d 1151, 1153-1154 (11th Cir. 1988), cert. denied, 488 U.S. 1005 (1989). Section 3512 enables the United States to respond "more quickly . . . to foreign evidence

requests. These efforts will assist [the United States] with [its] investigations as foreign authorities will be urged to respond in kind to our evidence requests in a speedy manner." 155 CONG. REC. H10,093 (2009)(Statement of Rep. Schiff).

As to this Request, both the investigatory nature of the Request as described and the intentions of the foreign authority under the Treaty militate that the application and order be maintained under seal.

Accordingly, to execute this Request, the Government moves this Court to issue the attached order pursuant to the Treaty and 18 U.S.C. § 3512 appointing the undersigned Assistant U.S. Attorney Peter Forand as Commissioner, authorizing him to take the actions necessary, including the issuance of commissioner's subpoenas, to obtain the evidence requested, to adopt such procedures in receipt of the evidence as are consistent with the intended use thereof, and sealing the application and order until further order of this Court.

Respectfully submitted,

WIFREDO A. FERRER
UNITED STATES ATTORNEY

By: 

PETER A. FORAND
ASSISTANT UNITED STATES ATTORNEY
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Home Office

Judicial Co-operation Unit
United Kingdom Central Authority
5th Floor, Fry Building, 2 Marsham Street, London SW1P 4DF
Switchboard 020 7035 4848 Fax 0207 035 6985 Direct No 0207 035 1295
http://police.homeoffice.gov.uk/operational-policing/mutual-legal-assistance/

US Department of Justice
Office of International Affairs
Criminal Division
1301 New York Avenue,
Suite 800,
WASHINGTON DC 20005

Our Ref: MLO2010USA9141541

Your Ref:

Date: Tuesday 21 September 2010

URGENT

Dear Sir/Madam

LETTER OF REQUEST FOR LEGAL ASSISTANCE IN THE MATTER OF OPERATION APPRENTICE

Please find enclosed a letter of request for legal assistance issued by the Crown Prosecution Service, dated 7 September 2010. I should be grateful if you would arrange for the request to be executed.

It would assist if you could indicate when sending the evidence to us, whether it should be returned to you when no longer required for the purposes specified in the request.

I am the designated caseworker in this case so please send any evidence to me at the address set out above. **Please quote the UKCA reference in all future correspondence in this matter.**

In the event that the evidence is handed to visiting officers, please let me know so I can update our file.

I would be grateful if you would acknowledge receipt of this request.

Thank you for your assistance in this matter and I look forward to hearing from you in due course.

Yours faithfully

W Hayles-Ricketts
For and on behalf of the Secretary of State

David Green QC, Director Central Fraud Group
Crown Prosecution Service
6th Floor South Rose Court, 2 Southwark Bridge
London SE1 9HS

Tel: +44 (0) 20 3357 0284 Fax: +44 (0) 20 3357 0237
david.green@cps.gsi.gov.uk

CPS

The CPS Incorporates RCPO

US Department of Justice
Criminal Division
Office of International Affairs
1301 New York Avenue, NW
Washington, DC 20005
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Your ref:

Our ref: RC1/0910/45

Case Lawyer: James Coussey
Tel: +44 (0) 20 3357 0272
Fax: +44 (0) 20 3357 0236
E-mail: james.coussey@cps.gsi.gov.uk

Date: 7 September 2010

Dear Sir

URGENT LETTER OF REQUEST:
OPERATION APPRENTICE - PETER STORRIE, HARRY REDKNAPP & MILAN MADARIC

I am a designated Prosecuting Authority and I am empowered to make this request pursuant to section 7 of the Crime (International Co-operation) Act 2003.

I have the honour to request your assistance in relation to a criminal prosecution being conducted by the Crown Prosecution Service in relation to offences of Cheating the Public Revenue contrary to common law.

This request is urgent because there is a hearing on the 25 November 2010 in which the defence will make an application to the judge to dismiss this case. I would be grateful if you were able to provide the evidence sought by 31 October 2010 so that we can analyse the evidence and pursue any further lines of enquiry that arise there from.

Basis of the Request

I make this request pursuant to the Instrument as Contemplated by Article 3(2) of the Agreement on Mutual Legal Assistance Between the United States of America and the European Union Signed 25 June 2003, as to the Application of the Treaty Between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America on Mutual Legal Assistance in Criminal Matters Signed 6 January 1994.

Purpose of the Request

This is request for banking evidence for use in the ongoing investigation and prosecution of the following:

SUBJECT	DATE of BIRTH	PLACE of BIRTH	NATIONALITY	ADDRESS
Peter STORRIE	[redacted] 1952	London	British	[redacted] UK
Milan MANDARIC	[redacted] 1938	Yugo-slavia	Serbian British US	[redacted] And/or – [redacted] UK





				In US – [redacted] And/or [redacted] Florida, US
Henry James REDKNAPP	[redacted] 1947	London	British	[redacted] UK

Concerning for offences of cheating the revenue in respect of conduct outlined below.

The Offence of Cheating the Revenue

This is an offence under the English "common law" – that is that part of the law of England and Wales formulated, developed and administered over centuries by the old common law courts, based originally on the common customs of the country rather than set out in Act of Parliament.

The offence dates back to the Middle Ages and is essentially the diversion of Government funds (the Revenue). The nature of the offence is sufficiently broad to cover any form of fraudulent conduct which results in the diversion of money from the Revenue authorities or which otherwise deprives them of funds to which they were entitled. It is not necessary that any person be deceived or any resultant loss be proved.

The maximum sentence is life imprisonment; however, in practice, offences of Cheating the Revenue involving large sums of money can result in sentences approaching 15 years imprisonment.

The Prosecution

This case arose out of a large and wide-ranging investigation into dishonest behaviour by people involved with English football clubs. The allegations against these three men all arise out their connection with Portsmouth Football Club. Milan



Mandaric was the Club's Chairman and owner, Peter Storrie was the Chief Executive and Henry James Redknapp was the Football Manager.

The charges relate to allegations of failing to pay tax on payments made to club employees. When any payment is made to an employee in relation to his employment the employer, here Portsmouth Football Club, must pay income tax and national insurance tax contributions to HM Revenue and Customs (HMRC) in relation to that payment to the employee. It is alleged that Portsmouth Football Club was in financial difficulties so pursued a course of conduct by which members of the club dishonestly made or received payments which were hidden from the tax authority - HMRC - in order to save the club the money which it should have paid in tax.

Peter Storrie is charged with an offence of Cheating the Revenue between 1 July 2003 and 28 November 2007. The allegation is that in his capacity as Chief Executive of Portsmouth Football Club and with intent to defraud and to the prejudice of Her Majesty's Revenue and Customs he arranged for a payment to Amdy Faye, a football player, to be paid via the bank account of an agent, William McKay. The prosecution allege the agent's bank account was used in order to conceal the true beneficiary of the payment – an employee of the club. By concealing the fact that the payments were for the footballer the club avoided their liability for income tax and national insurance contributions.

Milan Mandaric and Henry James Redknapp have now been jointly charged with Cheating the Revenue in relation to two payments made between 1 April 2002 and 28 November 2007 from Milan Mandaric - Chairman of Portsmouth Football Club - to Henry James Redknapp - Manager of Portsmouth Football Club. The payments were for $145,000 and $150,000 and it is alleged that with intent to defraud Her Majesty's Revenue and Customs the payments were made to an HSBC account in Monaco in order to conceal payments to Mr. Redknapp. The prosecution allege that these payments were concealed in order to avoid the income tax and national insurance contributions for which the club was liable, as his employer, to pay. Following receipt of payments into his Monaco account Mr. Redknapp then transferred money into his bank account in the U.K.

The court exercising jurisdiction in these cases is Southwark Crown Court.

How This Request Arises

Following the provision of material from Mr. Redknapp's bank account in Monaco, the following transactions were identified:

Date	Account Holder	Payment by	Amount	Received by
28 May 2002	Henry Redknapp	First Star International [redacted]171	$ 145,000	[redacted]6905
04 June 2002	Henry Redknapp	[redacted]2059	$145,000	[redacted]
11 May 2004	Henry Redknapp	First Star International [redacted]8171	$ 150,000	[redacted]6905
12 February 2008	Henry Redknapp	[redacted]3905 Rosie 47	$207,433.73	HR HSBC sort [redacted]05-50 A/C No. [redacted]5413

When Milan Mandaric was questioned in relation to payments made to Henry Redknapp, he admitted that he had made one payment to him which was for an investment. He denied that he had used an off shore account to conceal payments upon which tax was payable. We have identified a pattern of offshore accounts being used to make payments to employees of Portsmouth Football club without accounting for the tax due on such payments.

You will note from the above table that two payments were made to Henry Redknapp from a company called First Star International. Internet searches have named Mandaric as a director of the company and that First Star International Limited Inc is a company formed in California in 1988 and authorised to do business in Florida in 2001. We have identified the account number from an exhibit in our case which is an email sent from Mandaric's solicitor to the Harry Redknapp's solicitor requesting the repayment of a loan. The request states that the loan should be repaid to the account at First Star International and states the account number.

The company has a bank account at

City National Bank of Florida
Private Client Group
Miami
Florida 33130



ABA [redacted]4367
First Star International Limited
#[redacted]8171.

The further evidence that we are seeking is expected to prove that at the material time, Mr. Mandaric was the director of First International. This will in turn assist the prosecution show that he was responsible for making/authorising payments to the account in Monaco held by Mr. Redknapp and that these payments are for his services that have not been declared for tax purposes, rather then a one off payment for an investment opportunity as Mandaric has suggested when questioned.

Assistance Requested

1. In respect of

City National Bank of Florida
Private Client Group
Miami
Florida 33130

ABA #[redacted]4367
First Star International Limited
#[redacted]8171.

for the period of May 2002 to 28 February 2008 (the period of the transactions identified in the Monaco account) please provide me with:

-copies of account opening documentation including the bank manager's notes, correspondence, identity documents and application forms

-copy bank statements showing all transactions for the whole period in question

-details of payment instructions for electronic transfers made or transmitted from the above account and any vouchers supporting those transactions.

2. Please provide me with a written statement from an appropriate official of the registrar of companies in California, setting out the names and details of persons holding the office of director, or equivalent, of First Star International Ltd at any time from its inception to 28 February 2008.



Unless you indicate otherwise, any evidence obtained pursuant to this request may be used in any criminal prosecution or other judicial proceedings connected with this investigation, including any restraint or confiscation proceedings, whether relating to the above named subjects or to any other person who may become a subject of this investigation.

Preferred Format of Evidence Provided

I would be most grateful if, in so far as possible, any evidence obtained as a result of this request is taken in a format which accords with the following paragraphs.

Witness Statements – In general a witness should describe what he himself witnessed or did. Where it is necessary for a witness to include in his statement information that he has obtained from others, the source of the information should be stated. Any witness statement should be signed by the witness and dated, and the witness should state that the statement is true to the best of his knowledge and belief. If the witness is under 18, his age should be stated. The witness's address, telephone number and date of birth should be written on the reverse of the first page of the statement. The witness should be asked to state whether he would be willing to attend if required at judicial proceedings in the UK.

Exhibiting Documents, Items or Other Things – Where an exhibit is obtained from a witness, the witness should describe that exhibit in his statement and give it an exhibit number. The exhibit number should consist of the witness's initials and a sequential number. A witness should state how he obtained an exhibit, what he did with it, and how he disposed of it. If a witness passes on an exhibit to a second person, that second person should also provide a witness statement describing in the same manner his treatment of the exhibit. Where a witness produces a number of exhibits, a single statement will suffice for all of them.

Business Documents – A witness may in certain circumstances exhibit documents about which he has no direct knowledge. In order to do so, the witness should state:

(i) that the document or a relevant part of it was created or received by a person in the course of a trade, business, profession or other occupation, or as the holder of a paid or unpaid office;

(ii) the person who supplied the information contained in the document had or may reasonably be supposed to have had personal knowledge of the matters dealt with;

(iii) if the information was not supplied directly, that each person through whom the information was supplied received the information in the course of a trade, business, profession or other occupation, or as the holder of a paid or unpaid office.

Transmission of Evidence

It is requested that any evidence is itemised and sealed and sent to the United Kingdom Central Authority, and that the authorities in the United Kingdom are informed as to any need to return any evidence at the conclusion of the proceedings in the United Kingdom.

When you send the evidence, I would be grateful if you would also email me at lettersofrequest@cps.gsi.gov.uk to confirm that the evidence has been dispatched. This will enable me to make enquiries to locate the evidence if it is not received within a few days.

Reciprocity

I confirm that the assistance requested above may be obtained under current English law if in a like case a request for such assistance were made to the authorities in England and Wales

Contacts

The appropriate person to contact in the event of a query arising from this request is

James Coussey
Tel: +44 (0) 20 3357 0272
Fax: +44 (0) 20 3357 0236
E-mail: james.coussey@cps.gsi.gov.uk

I extend my thanks in anticipation of your valued co-operation and assistance in this matter.

Yours faithfully,



David Green QC,
Director, Central Fraud Group

Witness Statement

Statement of:

Occupation:

I am over 18 years of age, and this statement, consisting of _____ page(s), is true to the best of my knowledge and belief.

Signature:_____ Date:_____

Signature:_____ Date:_____